

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

LEANTHONY T. WINSTON, #1369027,

Petitioner,

v.

ACTION NO. 2:18cv577

HAROLD W. CLARKE,

Respondent.

ORDER

Petitioner LeAnthony T. Winston (“Winston”), a Virginia inmate, submitted a *pro se* petition pursuant to 28 U.S.C. § 2254, as well as two supplements to his petition. ECF Nos. 1, 2, 6. Winston alleges that his federal rights were violated when he was prosecuted for various offenses in the Circuit Court for the City of Norfolk between 2014 and 2016. *Id.*

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Local Civil Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report and recommendation, filed May 21, 2019, recommends that respondent’s motion to dismiss be denied, Winston’s motion for a temporary restraining order be dismissed without prejudice, and the petition for a writ of habeas corpus be stayed pending further order of the Court.

Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On June 3, 2019, the Court received Winston’s objections to the report and recommendation. ECF No. 28. In addition, Winston filed a motion

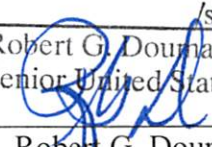
for temporary restraining order and preliminary injunction on May 28, 2019, and a motion for declaratory judgment on June 11, 2019. ECF Nos. 24, 29.

The Court, having reviewed the record, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS** that respondent's motion to dismiss, ECF No. 12, be **DENIED**, Winston's motion for a temporary restraining order, ECF Nos. 9, 18, be **DISMISSED WITHOUT PREJUDICE**, and the petition for a writ of habeas corpus, ECF Nos. 1, 2, 6, be **STAYED** pending further order of the Court.

The Court further **ORDERS** that Winston's additional motion for temporary restraining order and preliminary injunction, filed May 28, 2019, ECF No. 24, be **DISMISSED WITHOUT PREJUDICE**, and Winston's motion for declaratory judgment, ECF No. 29, be **DENIED**.

The Court further **ORDERS** Winston to file an amended federal petition on the proper form with his claims numbered no later than thirty days after his state court remedies have been exhausted, or his current federal petition will be dismissed.

The Clerk shall mail a copy of this Order to Winston and counsel of record for respondent.



Robert G. Doumar
Senior United States District Judge

Robert G. Doumar
United States District Judge

Norfolk, Virginia
June 20 2019